1952. K **File No.** D. Pensions

52

Legal Dept.

A **BRANCH**

P. 3 (E)

Subject:— Opinions under the Pensions Act 1871

File No. O. Pensions

Gen. 194 a.

623-A

C O N T E N T S.

Legal Department, File No. C. Pensions/52.

Sr. No.	R.I./C.No.	Subject	Pages.
		Opinions under the Pensio n Act, 1871.	
1.	13807 11-8-1952	Re: Payment of Vanis allowance to the ladies of the deceased wives Nawab of Broach.	1-2.
2.	21856 26-12-1952.	Pension Rules. Rule 4: Re: Transfer of cash allowances to the Hyderabad State. Consequent upon the transfer of certain villages from this state to the Hyderabad State, under the India and Hyderabad (Exchange of Enclaves) Order 1950.	3-4.

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Office of the R.L.A.

Under the Mahomedan Law, the son is not a sharer of the estate of his mother. If there are no sharers the whole inheritance devolves upon the residuaries. (see para 65 of Mulla's Mahomedan Law). With the son the daughter also becomes a residuary, the son taking a double portion. On the death of Meher Nigar Begum, therefore, Mirza Maeziskhan and Mahmooda Begum will share her share of Rs. 17-7-0 in the proportion of 2 to 1.

2. The next question is about the inheritance of the share of Mahmooda Begum. In her case if the husband is alive, he would also be entitled as a sharer (see page 59A of Mulla) to ¼ or ½ of the estate if there is a child or there is no child, as the case may be. In the former case her children will share the remaining three-fourths, the male getting a double portion. In case she dies childless, the husband will get ½ and Mirza Maeziskhan will get the other half of the estate.

Sd./-
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Remembrancer of Legal Affairs.

U.R. to P.& S.D., No. 15207, the 11th August, 1952.

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LEGAL DEPARTMENT.

Pension Rules;
Rule 14.

Rule 14 of the Rules made under the Pensions Act, 1871, provides that the Mamlatdar shall strike off any pension or grant of payment of which no application is duly made for more than six years or in the case of Hardas Gosavi allowance, two years; and all arrears shall thereupon be forfeited. The words "the Mamlatdar shall strike off" apparently cast an imperative duty on the Mamlatdar to strike off the pension after the specified period. It does not, however, provide as to within what time the striking off should be done and ordinarily it would be construed to have been properly done if it is done as soon as possible after the period prescribed. As, however, the enclaves ceased to form part of this State and subject to any jurisdiction of this State on their transfer to Hyderabad on the 25th January 1950 (cf. Article II of the India and Hyderabad (Exchange of Enclaves) Order, 1950), no order can now be made by any Mamlatdar of the Bombay State under rule 14.

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Additional Secretary to Government

U.R. to R.D., No. 21856/A; dated the 26th December, 1952.

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